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Before the
FEDERAL COMMUNICATIONS COMMISSION
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SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
The Washington Utilities and Transportation)
Commission, Asotin Telephone Company,)
CenturyTel of Cowiche, Ellensburg Telephone)
Company, CenturyTel of Washington, Hat Island)
Telephone Company, Hood Canal Telephone Co.,)
Inland Telephone Company, Kalama Telephone)
Company, Lewis River Telephone Company,)
Mashell Telecom, Inc., McDaniel Telephone)
Company, Pend Oreille Telephone Company,)
Pioneer Telephone Company, St. John, Co-Operative)
Telephone and Telegraph Company, Tenino Telephone)
Company, The Toledo Telephone Co., Inc., United)
Telephone Company of the Northwest, Western)
Wahkiakum County Telephone Company, Whidbey)
Telephone Company, and Yelm Telephone Company)
)
)
Joint Petition for Agreement with Designation of Rural)
Company Eligible Telecommunications Carrier)
Service Areas at the Exchange Level and for Approval)
of the Use of Disaggregation of Study Areas for the)
Purpose of Distributing Portable Federal Universal)
Service Support)

CC Docket No. 96-45

DA 98-1691

COMMENTS
of the
RURAL TELEPHONE COALITION

The Rural Telephone Coalition (RTC) respectfully submits these comments to the
Commission's *Public Notice* requesting comments on the Washington Utilities and

Transportation Division's (WUTC's) Petition, captioned above.¹ The RTC is comprised of the National Rural Telecom Association (NRTA), the National Telephone Cooperative Association (NTCA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO). Together, the three associations represent more than 850 small and rural telephone companies.

The RTC supports the petition and believes the Commission should grant the petitioners' request for approval of the agreement to designate ETC areas at the exchange level and to permit disaggregation of federal support. Nonetheless, the RTC has serious reservations about the apparent negotiation that underlies the petitioners' request. The Commission should affirm that the WUTC's decision, in this instance, to tie disaggregation with the designation of smaller study areas should not be used as precedent.

Section 214(e) of the 1996 Telecommunications Act provides that the authority to designate eligible telecommunications carriers (ETCs) resides with the states.² Further, states have the statutory option to choose one or multiple ETCs in rural areas if it is in the public interest.³ Pursuant to the Commission's rules,⁴ the petitioners have asked for approval of the WUTC's service area designation for twenty rural telephone companies. To spur the development of competition in its rural areas, the WUTC specifically seeks permission to designate areas at the exchange level, thereby eliminating the requirement that competitors offer

¹ See *Public Notice*, DA 98-1691, rel. August 28, 1998.

² 47 U.S.C. § 214(e).

³ 47 U.S.C. § 214(e)(2).

⁴ 47 C.F.R. § 54.207.

service throughout the incumbents' entire study area. In addition, the petitioners seek a waiver of the Commission's existing method of "porting" available universal service funds and propose instead a methodology to reflect differences in costs for each exchange served by multi-exchange rural companies and to calculate differences in costs between densely and sparsely populated areas for each exchange by disaggregating federal universal service support geographically into higher-cost and lower-cost exchange "zones." The petitioners emphasize that while the amount of support received by each company would remain unchanged, competitors would be less able to target and serve only low-cost customers within a given rural exchange.

I. DISAGGREGATION OF SUPPORT WITHIN RURAL SERVICE AREAS IS APPROPRIATE AND NECESSARY GIVEN THE COST VARIANCES THAT RESULT FROM THE POPULATION CLUSTERING AND DISPERSION IN SMALL COMMUNITIES

The RTC and many other rural entities have repeatedly discussed the perverse economic incentives that can result from a "portable" universal service support mechanism and potentially devastate the ultimate universal service goals of the Commission and Congress. The RTC has consistently maintained that to balance competition and universal service, the Commission should promulgate an accurate, sufficient, and delicately *disaggregated* support mechanism, "not a clumsy and averaged one."⁵

The RTC has reiterated in other filings the extreme cost differences that exist between a central office's nearby "town customers" and those located "twenty miles out."⁶ Because a competitor that targets a lower cost customer may receive more support than is necessary to serve

⁵ See RTC Comments, CC Docket No. 96-45, December 19, 1996, at 18.

⁶ See RTC Petition for Reconsideration and Clarification, CC Docket No. 96-45, July 17, 1997, at 8.

that customer, due to the use of the incumbent's averaged cost, the competitor gains an unfair advantage that allows a windfall of unnecessary support to undercut the incumbent. Moreover, the rural telephone company loses averaged support for customers served at a lower cost, creating a shortfall in support for its above-average cost service. Windfall support also defeats the Act's requirement that support be "sufficient."⁷ For this reason, the RTC believes that competitive local exchange carriers (CLECs) should be limited to support based on their *costs*. At a minimum, competitors should receive no more than the deaveraged support for each customer they win.⁸ This position is consistent with the petitioners' request for disaggregated support, whether or not the WUTC designates areas at the exchange level. While a move to disaggregation at an appropriate level is, plainly, necessary, the RTC does not necessarily embrace the "exchange" as the "correct" geographic area on which to base designation of ETC status, nor does it believe that disaggregation should be tied to state commission decisions to designate study areas that are different from the service area. The Commission should permit disaggregation of support for all incumbent telephone companies in acting on reconsideration to CC Docket No. 96-45.

⁷ 47 U.S.C. § 254(b)(5).

⁸ "Any plan that the Commission adopts should recognize that disaggregation of support within rural company service areas is required by cost variances that result from the clustering and dispersion characteristics of the population distribution in small communities. Disaggregation is necessary to prevent cream skimming by new entrants solely interested in serving the most attractive pockets in rural areas. Cream skimming should also not be encouraged by allowing new entrants to receive support on the basis of ILEC averaged per-line support." See RTC Reply Comments, January 10, 1997. Early in the proceeding, the RTC also stated that disaggregation of support into smaller geographic areas or density zones should help discourage cream skimming that could impair rural rates and network development. See RTC Comments, May 30, 1996.

II. THE WUTC'S DECISION TO TIE DISAGGREGATION WITH THE DESIGNATION OF SMALLER STUDY AREAS SHOULD NOT BE USED AS PRECEDENT

The RTC questions the process of negotiation that appears to have made the petitioners' agreement to designation of ETC status at the exchange level the price of gaining disaggregation of averaged support. The Commission's consent to allow carriers a method by which to appropriately disaggregate federal support should not be manipulated into a *quid pro quo* arrangement. A bargain like that struck with the WUTC is not needed to justify disaggregation of support under a portable universal service regime.⁹

Disaggregation is needed to prevent windfalls as long as the Commission's rules allow for support portability, and as long as that "ported" support remains based on the incumbent LEC's cost. Before designating additional eligible carriers in rural areas, state commissions must by law determine that designation be in the public interest.¹⁰ The state commission's determination is not contingent on any carrier agreeing to study area disaggregation, which raises separate issues of windfalls and disincentives for CLEC efficiency.

Furthermore, the RTC notes that the designation of areas at the exchange level rather than at the incumbents' study area level is likely to promote the very cream-skimming that the disaggregation of support is intended to prevent. In fact, the RTC previously made the point that the cherry-picking threat may be worse, for example, in study areas made up of noncontiguous

⁹ The petitioning rural telephone companies recognize that the determination of appropriate study area size involves issues separate from that of support disaggregation and have merely agreed that the exchange level designation should be used if, and only if, disaggregation is permitted. *See* Petition at 1, note 2.

¹⁰ 47 U.S.C. § 214(e)(2).

territory.¹¹ Thus, while the RTC strongly supports a “targeted” universal service support mechanism, it remains hesitant to condone disaggregation conditioned on rural telephone company acquiescence in ETC service area disaggregation below the study area level.

Designation of an eligible carrier at the exchange level may prevent cream-skimming within the new area, but it also excuses ETCs from serving higher cost customers, thereby affectively requiring cream-skimming.

III. IT IS APPROPRIATE TO USE A PROXY MECHANISM FOR THE LIMITED PURPOSE OF DISAGGREGATING SUPPORT

According to the Petition, the WUTC staff worked with the petitioning rural telephone companies to “develop a methodology for determining how federal universal service funds for ETC study areas could be made portable on a disaggregated basis.”¹² Those involved agreed to adapt the Benchmark Cost Proxy Model (BCPM) to provide census block group (CBG) level information. This information would be used to classify low-cost and high-cost “zones.” The petitioners make it clear that the intention is to use BCPM output data “for the derivation of the reallocation factor, not to set the amount of the USF support for a company.”¹³

Without discussing the specific merits of the adapted BCPM version the WUTC intends to use, the RTC concurs with the petitioners’ plan to use a proxy model for the purpose of support disaggregation. In its filings on the implementation of a forward-looking cost

¹¹ See RTC Petition for Reconsideration and Clarification, CC Docket No. 96-45, July 17, 1997, at 20.

¹² Petition at 11.

¹³ *Id.* at 12.

mechanism.¹⁴ the RTC has consistently urged the Commission to ensure that any model that is finally adopted for use in determining federal universal support permit rural telephone companies to calculate and receive support on the basis of disaggregated parts of their service areas. Indeed, some rural carriers still operating under a mechanism based on embedded cost would choose to use the proxy model, zones, or other appropriate apportionment to disaggregate support within their study areas, if permitted to do so.¹⁵ Supporting this limited use for support disaggregation does not indicate any change in the RTC's position that no proxy has been validated as a method to set the level of any rural company's costs or support. Thus the RTC supports the petitioners' request to elect the use of a proxy mechanism solely for this limited purpose.

¹⁴ See, for example, RTC Comments, CC Docket No. 96-45, January 10, 1997, at 7-8.

¹⁵ See RTC *ex parte*, CC Docket No. 96-45, December 9, 1996.

IV. CONCLUSION

For the above stated reasons, the RTC supports the Petition and urges the Commission to grant the petitioners' request. The Commission should also affirm, however, that the decision in this instance to tie disaggregation with the designation of smaller study areas should not be used as precedent.

Respectfully submitted,

THE RURAL TELEPHONE COALITION

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September 14, 1998

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the Rural Telephone Coalition in CC Docket No. 96-45, DA 98-1691 was served on this 14th day of September, 1998 by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

A handwritten signature in cursive script that reads "Rita H. Bolden". The signature is written in dark ink and is positioned above the printed name.

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